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AUG 27 2004

In re Application of : **OFFICE OF PETITIONS**
Tsukamoto et al. :
Application No. 10/791,278 : DECISION ON PETITION
Filed: 3 March, 2004 :
Attorney Docket No. 054707-1263 :

This is a decision on the petition filed on 19 July, 2004, requesting that the above-identified application be accorded a filing date which is treated as a petition requesting that above-identified application, including five (5) sheets of drawings, be accorded a filing date of 3 March, 2004.

The petition is granted.

On 3 March, 2004, the application was filed.

On 24 May, 2004, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that application should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings. The Notice also stated that the statutory basic filing fee, additional claim fees, oath or declaration, and surcharge for their late filing was also missing.

In response, on 19 July, 2004, the present petition and a copy of five (5) sheets of drawings, was filed, along with the statutory basic filing fee, additional claim fees, surcharge, petition fee, and declaration. Petitioners argue that five (5) drawing sheets was filed with the other application papers on 3 March, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard

receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 3 March, 2004, and identifies the application by the first named inventor's names, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, five (5) sheets of drawings. Petitioners request that the application, including the five (5) sheets of drawings, be accorded a filing date of 3 March, 2004.

A review of the record reveals that no sheets of drawings received on 3 March, 2004, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 3 March, 2004, included five (5) sheets of drawings, which were subsequently misplaced in the Office. Therefore, the application, including five (5) sheets of drawings, is entitled to a filing date of 3 March, 2004.

In view of the above, the petition is granted. The petition fee of \$130.00 will be credited to counsel's deposit account, No. 19-0741.

The application will be processed with the copy of the five (5) sheets of drawings supplied on 19 July, 2004, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 3 March, 2004, using the application papers filed on that date, and the copy of five (5) sheets of drawings supplied with the present petition, and for an indication in Office records that five (5) sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 703-308-6918.



Douglas I. Wood
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Office of Petitions